

TTAB

UNITED STATES PATENT AND TRADEMARK
OFFICE

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, VA 22313-1451

Mailed: August 31, 2005

Fleet Capital Corporation
Cerberus Partners, L.P.
450 Park Ave., 28th Flr.
New York, NY 10022

Cancellation No. 92044877

Reg. No. 2102282

Karen M. Cushman
Trademark Administrator
14375 NW Science Park Drive
Portland, OR 97229

75, 107, 167

Columbia Sportswear North America,
Inc.

V.

AIRWAY INDUSTRIES, INC.

10-06-2005

U.S. Patent & TMO/TM Mail Report #11

Pauline Stewart, Legal Assistant

A petition, a copy of which is attached, has been filed to
cancel the above-identified registration.

Proceedings will be conducted in accordance with the
Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Trademark Rule 2.196 for expiration date falling on
Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark
Rules of Practice, set forth in Title 37, part 2, of the Code of
Federal Regulations. The parties are reminded of the recent
amendments to the Trademark Rules that affect the rules of
practice before the TTAB. See Rules of Practice for Trademark-
Related Filings Under the Madrid Protocol Implementation Act, 68
Fed. R. 55,748 (September 26, 2003) (effective November 2,

2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available at www.uspto.gov/web/offices/dcom/ttab/.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open: **September 20, 2005**

Discovery period to close: **March 19, 2006**

30-day testimony period for party
in position of plaintiff to close: **June 17, 2006**

30-day testimony period for party
in position of defendant to close: **August 16, 2006**

15-day rebuttal testimony period
for plaintiff to close: **September 30, 2006**

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68

(June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA43587**

Filing date: **08/30/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Columbia Sportswear North America, Inc.		
Entity	Corporation	Citizenship	Oregon
Address	14375 NW Science Park Drive Portland, OR 97229 UNITED STATES		

Correspondence information	Karen M. Cushman Trademark Administrator Columbia Sportswear North America, Inc. 14375 NW Science Park Drive Portland, OR 97229 UNITED STATES bcason@columbia.com Phone:503-985-4009
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Registration Subject to Cancellation

Registration No	2102282	Registration date	09/30/1997
Registrant	AIRWAY INDUSTRIES, INC. Airway Park Ellwood City, PA 16117 UNITED STATES		
Goods/Services Subject to Cancellation	Class 018. First Use: 19940700, First Use In Commerce: 19940700 Goods/Services: luggage		

Grounds for Cancellation	The registered mark has been abandoned.
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Attachments	TITANIUM Cancellation Grounds.pdf (1 page)
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Signature	/barbara t. cason/
Name	Barbara T. Cason
Date	08/30/2005

The grounds for cancellation are as follows:

1. Upon information and belief, Petitioner alleges that Registrant has abandoned the registered mark TITANIUM, U.S. Registration No. 2102282, by discontinuing use of the mark on the goods identified in the registration, with no intent to resume such use. Petitioner has been and will be damaged by the continuance of the registration in that Petitioner intends to use the mark TITANIUM on all purpose sport, athletic and/or carrying bags, backpacks, fanny packs; sports packs; waist packs; hydration packs; tote bags; leather pouches, drawstring pouches and briefcases; and Petitioner's application has received an initial rejection based on an asserted conflict with Registrant's registration.

2. Petitioner believes its application will be impaired by the continued registration of the abandoned mark by Registrant. In addition, Petitioner's use of the TITANIUM mark for the referenced goods will be impaired by the continued registration of Registrant's abandoned mark.

WHEREFORE, Petitioner prays that U.S. Registration No. 2102282 be immediately canceled pursuant to 15 USC § 1068 and that this Petition for Cancellation be sustained in favor of Petitioner, and for such other and further relief as is deemed just and proper.

Return in Ten Days

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